TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1930

No. 336

UNITED STATES OF AMERICA EX REL. COSTAS CATECHES, PETITIONER,

vs.

BENJAMIN M. DAY, COMMISSIONER OF IMMIGRATION

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

PETITION FOR CERTIORARI FILED AUGUST 7, 1930

CERTIORARI GRANTED OCTOBER 13, 1930

(35,258)

(35,258)

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IN THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA ex rel. COSTAS CATECHES, Relator-Appellant,

vs.

BENJAMIN M. DAY, United States Commissioner of Immigration, Respondent-Appellee

STATEMENT

This proceeding was commenced on September 9th, 1929 by the filing of a petition and the issuance of a Writ of Habeas Corpus by Honorable Francis G. Caffey, United States District Judge.

Respondent filed its return and the matter was argued in open court on September 17th, 1929 before Honorable Francis G. Caffey, United States District Judge.

On September 18th, 1929 an order was made by Honorable Francis G. Caffey, U. S. D. J., dismissing the writ of habeas corpus without opinion.

On September 19th an order was made by Honorable Francis Caffey, U. S. D. J., allowing the present appeal to the Honorable Court and the relator was released on bail in the sum of One Thousand ($1,000) Dollars pending said appeal.

There has been no change of parties or attorneys since the commencement of the proceedings.

[fol. 2] IN UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA ex rel. COSTAS CATECHES, Relator,

vs.

BENJAMIN M. DAY, United States Commissioner of Immigration, Respondent

WRIT OF HABEAS CORPUS

The President of the United States of America to Benjamin M. Day, United States Commissioner of Immigration, Ellis Island, New York, and/or to whomsoever else may have custody and charge of the body of the above-named alien, Greetings:

The body of Costas Cateches, by you illegally detained and imprisoned, it is said, have you before the District Court of the United States in and for the Southern District of New York at Room 235, U. S. Post Office and Federal Courts Building, New York, at 10:30 o'clock in the forenoon on the 17th day of September 1929, together with the cause of his detention, to undergo and receive what this Court may deem fit and proper in the premises, and have you then and there this writ.

Witness Honorable John C. Knox, Judge of the District Court of the United States in and for the Southern Dis-[fol. 3] trict of New York, this 9th day of September, in the year of our Lord nineteen hundred twenty-nine, and of the Independence of the United States of America the one hundred fifty-fourth.

Alex. Gilchrist, Jr., Clerk of the District Court of the United States, Southern District of New York.

Writ allowed Sept. 9, 1929.

Francis G. Caffey, U. S. D. J. (Seal.)

[fol. 4] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR WRIT OF HABEAS CORPUS

To the Honorable Judge of the United States District Court, Southern District of New York:

Your relator, Costas Cateches for his petition for a writ of Habeas Corpus, respectfully shows:

That he is of the Greek race, is a seaman, and entered the United States at Boston, Massachusetts, as a member of the crew of an Italian Steamship, in October 1925.

That early on May 6th, 1929, relator was arrested by the United States Immigration Authorities, and that thereafter deportation proceedings and hearings were conducted by the United States Immigration Authorities at Ellis Island, New York.

Relator respectfully alleges that he being a seaman, and having been arrested more than three years after his entry into the United States, the Immigration Authorities are estopped from deporting him by reason of the provision of Section 34 of the Immigration Act of 1917.

[fol. 5] That the Secretary of Labor has issued a Warrant for relator's deportation on the S/S "Saturnia", sailing September 10th, 1929, and relator is now in the custody of the respondent at Ellis Island, New York, within the jurisdiction of this Honorable Court pending such deportation.

Relator respectfully alleges that all of the acts of the Immigration Authorities and of the Secretary of Labor herein, are contrary to law, and that he is now illegally detained, imprisoned, and restrained of his liberty without due process of law.

Wherefore he respectfully prays that a writ of habeas corpus issue herein requiring the respondent to produce him together with the cause of his detention before this Honorable Court in order that the legality of said detention may be inquired into.

Kostas Catechy.

[fol. 6] *Duly sworn to by Costas Cateches. Jurat omitted in printing.*

[fol. 7] IN UNITED STATES DISTRICT COURT

[Title omitted]

RETURN TO WRIT OF HABEAS CORPUS, WITH TESTIMONY AND EXHIBITS

SOUTHERN DISTRICT OF NEW YORK, ss:

Joseph Savoretti, being duly sworn, says that he is and during all the times herein mentioned has been clerk in the service of the United States; that he is attached to the Law Department of the Immigration Service of the United States at Ellis Island, New York; that he in his official capacity is authorized to make and in behalf of the respondent hereby makes the following return to the writ of habeas corpus herein.

In compliance with the direction of this Court, the body of the said alien in his own proper person was produced herewith before this Court at the time specified in the writ.

It is respectfully urged that upon its face the petition upon which the writ was granted is insufficient in law, and that the writ should therefore be quashed because

(a) The petition does not allege facts to show that the proceedings of the Department of Labor upon which was [fol. 8] issued the warrant of deportation pursuant to which the said alien was held, were not regular, fair and in compliance with the statute applicable in such cases, nor facts from which this Court can determine that the proceedings were either irregular, unfair or not in compliance with said statute;

(b) The petition does not allege any facts which entitled this Court to review the findings and conclusions of the Department of Labor upon which the warrant of deportation was issued;

(c) It is not alleged that there was no evidence before the Department of Labor upon which it based or could have based its findings and conclusion in accordance with which the warrant of deportation was issued;

(d) It does not appear by allegation of facts that the issues sought by the petition now to be litigated in this

Court have not already been determined by the Department of Labor adversely to the said alien in proceedings which were regular, fair and in compliance with the statute applicable thereto.

As appears by the records of the Department of Labor of the United States with respect to the above-named alien, copies of which are produced and filed herewith as part of this return.

1. The relator entered the United States at the Port of Boston, Mass. on or about October 15, 1925, via an unknown ship. He had been employed as a seaman on this vessel and upon his arrival at the Port of Boston, Mass. on or about October 15, 1925, he deserted the ship and has re- [fol. 9] mained in this country ever since. On May 8, 1929 the alien was served with a warrant of arrest dated May 3, 1929. The warrant of arrest charged that the relator had been found in the United States in violation of the Immigration Act of May 26, 1924, for the reason that he has remained in the United States for a longer time than permitted under the said act or regulations made thereunder. The relator admits that he deserted the vessel on which he had been previously engaged immediately upon his entry and that he has since been employed as a stevedore for the Cunard Steamship Company on Pier 54 and 56, New York City, N. Y. The relator was not in possession of an unexpired immigration visa at the time of his landing.

2. As appears from the record the alien was duly informed and apprised of the charges against him. He was afforded a full, complete and fair hearing by the Department of Labor upon the said charges and was afforded a full, complete and fair opportunity to answer and submit evidence upon such charges. There was evidence before the Department of Labor sufficient to sustain the said charges. The Department of Labor duly found that the charges were sustained, that they were in fact fully sustained by the proofs that were before and were considered by the Department of Labor. In any event, it cannot be said on the record herein the Department of Labor abused the discretion vested in it by Congress and its determination was final and conclusive.

3. Deponent denies any knowledge or information sufficient to form a belief as to the truth of the allegations of the relator's petition, except as to the allegations heretofore expressly admitted.

[fol. 10] Wherefore deponent prays that the writ of habeas corpus herein be dismissed and the said alien be remanded to the custody of the Commissioner of Immigration at Ellis Island, New York.

Joseph Savoretti.

Sworn to before me this 17th day of September, 1929. Richard L. Baltimore, Notary Public. Notary Public, New York Co., No. 33. New York Co. Register's No. —. Commission expires March 30, 1931. (Seal.)

[fol. 11] U. S. Department of Labor, Immigration Service, Ellis Island

99149/291

May 2, 1929.

The undersigned respectfully recommends that the Secretary of Labor issue his warrant for the arrest of Kostas Cateches, nat. of Greece deserted an unknown ship at the port of New York Sept. 1926, the alien named in the attached certificate, upon the following facts which the undersigned has carefully investigated, and which, to the best of his knowledge and belief, are true:

(1) (Here state fully facts which show alien to be unlawfully in the United States. Give sources of information, and, where possible, secure from informants and forward with this application duly verified affidavits setting forth the facts within the knowledge of the informants. Application for a warrant based on conviction for a crime committed in the United States should be accompanied by a copy of the alien's commitment obtained from the warden of the institution wherein he is confined, or a certificate of conviction obtained from the clerk of the court wherein sentence was pronounced.) Remained longer. From the enclosed report of Inspector Hanney, it appears that the

above named alien is in the U. S., in violation of law, in that he has remained in the U. S. for a longer period than permitted under the Act of May 26, 1924 or regulations made thereunder.

This confirms telegraphic request of even date. Information too indefinite to verify landing at this time.

[fol. 12] (2) The present location and occupation of above-named alien are as follows: 327 W. 17th St., City.

Pursuant to Rule 18 of the Immigration Regulations there is attached hereto and made a part hereof the certificate prescribed in subdivision B of said Rule, as to the landing or entry of said alien, duly signed by the immigration officer in charge at the port through which said alien entered the United States.

(S.) Byron H. Uhl, Assistant Commissioner.

(Copied/cc.)

U. S. Department of Labor, Immigration Service
Office of Commissioner of Immigration, Ellis Island, New York Harbor, N. Y.

May 1, 1929.

In answering refer to No. 99149/291.

Commissioner of Immigration, Ellis Island, N. Y. H.:

Telegraphic warrant of arrest is requested on the grounds, "Remained Longer" in the case of Kostas Cateches, native of Greece, who deserted an unknown vessel at the port of New York, September, 1926. Alien is residing at the present time at 327 West 17th Street, New York City. [fol. 13] One, Nick Argero, residing at 143 8th Avenue, New York City, appeared at this office and swore that this alien deserted an unknown vessel at the port of New York, in September, 1926.

A. E. Hanney, Immigrant Inspector.

AEH:RS.
D 4/29/29.

United States of America, Department of Labor,
Washington

No. 55666/391

To Commissioner of Immigration, Ellis Island, N. Y. H., or to any immigrant inspector in the service of the United States:

Whereas, from evidence submitted to me, it appears that the alien Kostas Cateches, who landed at the port of New York, N. Y., on or about the 15th day of Sept. 1926 has been found in the United States in violation of the immigration act of May 26, 1924, for the following among other reasons:

That he has remained in the United States for a longer time than permitted under the said act or regulations made thereunder;

I, Peter F. Snyder, Assistant to the Secretary of Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said alien and grant him a hearing to enable him to show cause why he should not be deported in conformity with law. [fol. 14]

The expenses of detention hereunder, if necessary, are authorized, payable from the appropriation "Expenses of Regulating Immigration, 1929". Pending further proceedings the alien may be released from custody under bond in the sum of $500.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 3rd day of May, 1929.

Peter F. Snyder, Assistant to the Secretary of Labor.

U. S. Department of Labor, Immigration Service

Office of the Commissioner of Immigration, Ellis Island, New York Harbor

File No. 99149/291

May 15, 1929.

Commissioner-General of Immigration, Washington, D. C.:

Bureau No. 55666/391.

Name of Alien: Constantinos or Costas Catethes.

Nationality: Greek.

Country to which deportable: Greece.

Charges additional to those contained in warrant: None.

[fol. 15] Whether detained at government expense: No.

Passport Status: Greek passport on file. The assistant of the Bureau will be required.

Comment: Formal application for warrant of arrest with supporting evidence in this case, was mailed to the Bureau under date of May 2, 1929.

Claims entry at Boston, October, 1925, as unknown, crew.

(S.) Benj. M. Day, Commissioner.

AS.
Enc. #17586.
(Copied/cc.)

U. S. Department of Labor, Immigration Service, Ellis Island, N. Y. H.

File No. 99149/291

Record of Hearing Constantinos Catethes or Costas Catethes under Department Warrant of Arrest

No. 55566/391. Dated May 3, 1929

Present for the Government: Inspector A. E. Hanney, Secretary F. B. Nathansen, Interpreter B. Christopher (Greek).

Present for the alien: Alien present in person.

Hearing held at Ellis Island, N. Y. H., on May 8, 1929.

[fol. 16] Alien brought to Ellis Island by: Inspector Hanney.

Date: 9 A. M., May 8, 1929.

Result of medical examination (state finding): Not certified.

Verification of landing: Cannot be verified.

Last Foreign address: Nathrekien-Korkyre (Corfu) Greece.

U. S. Address: 231 W. 40th St., fifth floor, New York City.

Relatives in U. S.: Cousin, Alexandres Kessimie, 427 W. 16th St., N. Y. C.

Passport Status: Greek passport on file at Ellis Island.

Description: 5' 2", 125 lbs., dark brown hair, brown eyes.

Property: Effects at U. S. address and $1,573.40 in the New York Savings Bank, 83 8th Ave., New York City.

Foreign address to which deportable: Kathrakien-Karkyre (Corfu) Greece.

~~99149/291~~

At Ellis Island, N. Y. H., May 8, 1929

Alien, sworn by Inspector Hanney, testifies in Greek through Interpreter Christopher as follows:

Q. What is your correct name?

A. Constantinos Catethes.

Q. Have you ever been known by any other name?

A. Costas Catethes.

Q. What is your last address in the United States?

A. 321 W. 40th St., 5th floor, New York City.

[fol. 17] Q. Where are you employed?

A. As stevedore for the Cunard Steamship Co. on Pier 54 and 56.

Q. I show you, serve upon you, read and explain to you, Department warrant of arrest No. 55666/391, dated May 8, 1929, issued by the Assistant to the Secretary of Labor, charging that you have been found in the United States in violation of the Immigration Act of May 26, 1924, for the following among other reasons: that you have remained in the United States for a longer time than permitted under the said act or regulations made thereunder. The purpose of this hearing is to give you an opportunity to show cause, if any there be, why you should not be deported. Under the law, you are entitled to secure the services of counsel at your own expense, or you may be represented by some other person of your own choosing. Do you wish to be represented?

A. No, I don't want a lawyer.

Q. How old are you and when and where were you born.

A. 28, born in Mathrakion-Kefkyre (Corfu) Greece, in 1901. I don't remember the month.

Q. Are you married or single?

A. Married.

Q. What is your wife's maiden name and where was she born?

A. Her name is Anastasia Constantinou Catethes, born in the same town I was.

Q. When and where were you married?

A Married in the same place in January 1919.

Q. Have you any children?

A Three children

Q. Give their names and ages?

A. Spyros, 7 years old, George, 6 years old and Amelia, 5 years old.

Q. What nationality and race are you?

A. Greece-Greek.

Q. How long have you been a seaman?

A. Since I was 15 years old.

[fol. 18] Q. When and where did you last enter the United States as a seaman?

A. I arrived at the port of Boston, October 1, 1924. It was an Italian ship. I don't remember the name.

Q. What lines?

A. I don't remember the name of the company.

Q. In what capacity were you employed on this vessel?

A. Sailor.

Q. Were you discharged from this vessel or did you desert?

A. I deserted the ship.

Q. Have you continued to remain in the United States since your desertion in October 1924?

A. Yes.

Q. Never have been out?

A. No.

Q. At the time of your entry were you in possession of an unexpired immigration visa?

A. No.

Q. Have you a passport or any other documentary evidence of your nationality?

A. Yes. (Presents a Greek passport No. 899 issued to the alien at Corfu, Greece, December 4, 1924, and also bears a visa of the Consul-General of Greece in France— visa No. 273, dated December 11, 1924. Same is made part of the file.)

Q. Your passport shows that you had visa stamped at the Greek Consulate in France in December 1924, how do you account for this visa being on your passport and you stating that you entered the United States at Boston in October 1924?

A. I want to correct that. It was October 1925.

Q. What is the present address of your wife and children?

A. In the same town where I was born.

Q. What is the present address of your parents?

A. Both of them live in the same place.

Q. What is your father's name and where was he born?

A. His name is Spyridon, born in the same place.

[fol. 19] Q. What is your mother's maiden name and where was she born?

A. Amelia Marinou Kassimi, born also in the same place.

Q. Have you any relatives in the United States?

A. I have many cousins.

Q. Give me the name and address of one cousin?

A. Alexandros Kassimie, 427 W. 16th St., New York City.

Q. What church were you christened in?

A. St. Nicholas Greek Orthodox Church in my birthplace, which I also attended.

Q. What schools did you attend?

A. Graduated high school in my birthplace.

Q. Have you ever been arrested or imprisoned at any time?

A. No.

Q. Was the Immigration Service in Mobile, Ala., ever after you?

A. I was in Mobile, but came back from Mobile here.

Q. Was the Immigration Service looking for you?

A. No, they were looking for others but not for me.

Q. How do you know they were looking for others?

A. I heard say.

Q. Have you ever been an inmate of any hospital or institution?

A. No, sir.

Q. Have you any money in the bank or any due you anywhere?

A. Yes. (Present bankbook No. 332511 on the New York Savings Bank, 83 8th Ave., New York City, same having a balance of $1,573.40.)

Q. Where are your clothing and personal effects?

A. At my address.

Q. Have you anything to say why you should not be deported to the country of which you are a citizen?

A. I understood that after having been three years in the United States I am entitled to stay here.

[fol. 20] Q. If permission were given you to reship foreign one way in lieu of deportation would you accept this opportunity?

A. Yes.

Q. Pending disposition of your case by the Bureau are you able to furnish $500 bond for your release from custody?

A. Yes.

Case closed.

AEH:FBN.
D 5/8/29 T 5/9/29.

99149/291

Summary

Constantinos Catethes or Costas Catethes, 28, male, married, seaman, native and citizen of Greece, Greek race, arrived at the port of Boston, on or about October 1, 1925, as a seaman on an Italian vessel and deserted. Arrival not verified.

Hearing held at Ellis Island, N. Y. H. May 8, 1929, by Inspector A. E. Hanney, under Department warrant of arrest No. 55666/391 dated May 3, 1929, charge—"Remained Longer". Alien present in person, waived right to counsel or representation.

Warrant read and explained. No additional charge lodged.

This alien arrived in the United States as indicated in the first paragraph. From the alien's sworn testimony, it appears that he deserted his vessel in Boston, Mass., on or about October 1, 1925 and continued to remain in the [fol. 21] United States in violation of the immigration act of May 26, 1924, or regulations made thereunder. He was not in possession of an unexpired immigration visa at the time of his entry.

Alien was released under bond in the sum of $500, his address being 321 40th Street, 5th floor, New York City.

Alien is in possession of Greek passport #899, issued to him December 4, 1924. Same is attached to file. The assistance of the Bureau will be required.

The charge contained in the warrant having been sustained by the evidence, I recommend deportation of the alien at Government expense and that he be permitted to reship foreign one way in lieu of deportation.

A. E. Hanney, Immigrant Inspector.

AEH:AS.
T 5/13.

99149/291

United States of America, Department of Labor,
Washington

No. 55666/391

To Commissioner of Immigration, Ellis Island, N. Y. H., or to any officer or employee of the United — Immigration Service:

Whereas, from proofs submitted to W. N. Smelser, after due hearing before Immigrant Inspector A. E. Hanney, [fol. 22] held at Ellis Island, N. Y. H., the said W. H. Smelser has become satisfied that the alien, Constantinos or Costas Catethes, who landed at the port of Boston, Massachusetts, on or about the 15th day of October, 1925, has been found in the United States in violation of the immigration act of May 26, 1924, to wit: That he has remained in the United States for a longer time than permitted under the said act or regulations made thereunder, and may be deported in accordance therewith:

I, P. F. Snyder, Assistant to the Secretary of Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said alien to Greece, the country whence he came, at the expense of the appropriation "Expense of Regulating Immigration, 1929", including the expenses of an attendant, if necessary. Upon consent surety the alien may be permitted to depart voluntarily or ship foreign one way, without expense to the United States to any country of his choice, except foreign contiguous territory or adjacent

islands, such departure to be verified, and to be considered a satisfactory compliance with the terms of this warrant. Delivery of the alien and acceptance for deportation or proof of voluntary departure or shipment foreign will serve to cancel the outstanding appearance bond.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 11th day of June, 1929.

(S.) P. F. Snyder, Assistant to the Secretary of Labor.

[fol. 23] IN UNITED STATES DISTRICT COURT

M 12/336

UNITED STATES OF AMERICA ex Rel. KOSTAS CATECHES, Relator,

vs.

BENJAMIN M. DAY, Commissioner of Immigration, Port of New York, Respondent

ORDER DISMISSING WRIT—Sept. 17, 1929

The return to the above writ having duly come on to be heard before me on the 17th day of September, 1929, and after hearing Harold Van Riper, Esq., of counsel, for the relator, and Ernest Lappano, Assistant United States Attorney, for the respondent, and due deliberation having been had, it is hereby

Ordered that the said writ of habeas corpus be and the same hereby is dismissed, and that the relator, Kostas Cateches, be and he hereby is remanded to the custody of [fol. 24] the Commissioner of Immigration at the Port of New York.

Francis J. Caffey, U. S. D. J.

(Sig. can't decipher.)

Notice of settlement is hereby waived.

J. Waisman, Attorney for Relator.

Dated September 18, 1929.

[fol. 25] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER ALLOWING APPEAL

On reading the petition of Costas Cateches, made by his attorney, J. Waisman, dated September 18th, 1929, for appeal and consideration of the Assignment of Errors presented herewith, it is

Ordered that the appeal herein be allowed as prayed for and that pending its determination the said Costas Cateches shall be released from custody upon giving bail by bond or undertaking in the sum of $1,000.00, and it is

Further ordered that a certified copy of the record of all proceedings herein transmitted to the Circuit Court of Appeals for the Second Circuit.

Dated, New York, September 19th, 1929.

Francis G. Caffey, U. S. D. J.

9/18/29.

Approved as to form. Charles H. Tuttle, U. S. Atty. E. Lappano, Asst. U. S. Atty.

[fol. 26] IN UNITED STATES DISTRICT COURT

[Title omitted]

PETITION FOR ALLOWANCE OF APPEAL

The petitioner, Costas Cateches, by his attorney, J. Waisman, feeling aggrieved by the Order and Judgment made on the 18th day of September, 1929, by this Court, dismissing the writ of habeas corpus herein, does hereby appeal from the Order and Judgment of this Court to the United States Circuit Court of Appeals for the Second Circuit and prays that this appeal may be allowed and that transcript of the record of the proceedings and papers upon which the said Order and decision was made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Second Circuit.

Dated New York, September 19th, 1929.

J. Waisman, Attorney for Relator, One Broadway, New York.

To Charles H. Tuttle, U. S. Attorney for the Southern District of New York, Attorney for respondent-appellee.
Alex Gilchrist, Jr., Clerk of U. S. District Court, Southern District of New York.

[fol. 27] IN UNITED STATES DISTRICT COURT

[Title omitted]

ASSIGNMENT OF ERRORS

Now comes the relator in the above-entitled cause and files the following Assignment of Errors upon which he will rely upon the prosecution of the appeal in the above-entitled cause from a decree made and entered herein by this Court on the 18th day of September, 1929.

The Court erred in dismissing the writ of habeas corpus, because:

Sections 3, 14 and 15 of the Immigration Act of 1924, and Paragraph 2, Subdivision 1, Rule 6, of Immigration Rules of March 1, 1927, relied upon by respondent, relate to the deportation of alien seamen permitted to land lawfully in the pursuit of their calling, who unlawfully remain for a longer period than so permitted thereunder, and are not applicable to cases as the instant case wherein the alien seamen's original entry was unlawful, which condition is specifically provided for by Section 34 of the Immigration Act of February 5, 1917, under which the Secretary of Labor is estopped from deporting alien seamen after the lapse of more than three years after their unlawful entry.

[fol. 28] Whereas by the Law of the Land, the said writ of habeas corpus should have been sustained, now the said Costas Cateches, by his attorney, J. Waisman, prays that for the errors aforesaid, and other errors in the record and proceedings, the judgment and decision aforesaid made on the 18th day of September, 1929, be set aside and for naught be held and esteemed, and that the writ of habeas corpus herein be sustained.

Dated September 19th, 1929.

J. Waisman, Attorney for Relator.

[fols. 29 & 30] Citation, in usual form, omitted in printing.

[fol. 31] In United States District Court

[Title omitted]

Stipulation as to Record

It is hereby stipulated and agreed that the foregoing is a true copy of the transcript of the record of the said District Court in the above-entitled matter as agreed on by the parties.

Dated February 5, 1930.

J. Waisman, Attorney for Relator. Charles H. Tuttle, U. S. Attorney, Attorney for Respondent.

[fol. 32] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 33] In United States Circuit Court of Appeals for the Second Circuit

United States of America ex Rel. Costas Cateches, Relator-Appellant,

against

Benjamin M. Day, United States Commissioner of Immigration, Respondent-Appellee

Before Manton, Swan, and A. N. Hand, Circuit Judges

Harold Van Riper, Esq., Counsel for Appellant.

Charles H. Tuttle, Esq., United States Attorney; George B. Schoonmaker, Esq., Asst. U. S. Attorney, of Counsel.

Per Curiam:

Order affirmed.

[fol. 34] IN UNITED STATES CIRCUIT COURT OF APPEALS, SECOND CIRCUIT

UNITED STATES ex Rel. COSTAS CATECHES, Relator-Appellant,

v.

BENJAMIN M. DAY, as Commissioner, etc., Respondent-Appellee

Appeal from the District Court of the United States for the Southern District of New York

JUDGMENT—Filed May 12, 1930

This cause came on to be heard on the transcript of record from the District Court of the United States for the Southern District of New York and was argued by counsel.

On consideration whereof, it is now hereby ordered, adjudged, and decreed that the order of said District Court be, and it hereby is, affirmed.

It is further ordered that a Mandate issue to the said District Court in accordance with this decree.

Wm. Parkin, Clerk.

[fol. 35] [File endorsement omitted.]

[fol. 36] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 37] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed October 13, 1930

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Second Circuit is granted, and the case is assigned for hearing immediately following case No. 125, Walter E. Carr, Director of Immigration, etc., vs. Mateo Zaja.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied

the petition shall be treated as though filed in response to such writ.

Endorsed on cover: File No. 35,258. U. S. Circuit Court of Appeals, Second Circuit. Term No. 336. United States of America ex rel. Costas Cateches, petitioner, vs. Bejamin M. Day, Commissioner of Immigration. Petition for a writ of certiorari and exhibit thereto. Filed August 7, 1930. File No. 35,258.